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13 UNITED STATES DISTRICT COURT

14 FOR THE NORTHERN DISTRICT OF CALIFORNIA

15 OAKLAND DIVISION

16 EPIC GAMES, INC.,
17 Plaintiff, Counter-defendant

Case No. 4:20-cv-05640-YGR-TSH
Case No. 4:11-cv-06714-YGR-TSH
Case No. 4:19-cv-03074-YGR-TSH

18 v.
19 APPLE INC.,
20 Defendant, Counter-claimant

**DEFENDANT APPLE INC.'S
ADMINISTRATIVE MOTION TO SEAL
DISCOVERY ORDER**

21 IN RE APPLE IPHONE ANTITRUST
22 LITIGATION

Hon. Thomas S. Hixson

23 DONALD R. CAMERON, *et al.*,
24 Plaintiffs

25 v.
26 APPLE INC.,
27 Defendant.

Pursuant to Federal Rule of Civil Procedure 26(c), Defendant Apple Inc. (“Apple”) moves the Court to partially seal its January 26, 2021 Discovery Order, Epic Games Dkt. 291. This motion is filed pursuant to the same Order, which instructed that “[a]ny party or Samsung may file proposed redactions to this order by noon January 28, 2021.” Epic Games Dkt. 291 at 10. Apple respectfully submits that sealing is appropriate to protect the confidentiality of Apple’s internal discussions and decision-making regarding the management of its business.

A party seeking to seal materials filed in connection with a non-dispositive motion must make a “particularized showing” under the “good cause” standard of Federal Rule of Civil Procedure 26(c). *Kamakana v. City & County of Honolulu*, 447 F.3d 1172, 1178–80 (9th Cir. 2006). Apple seeks to seal internal strategic decision-making discussions that, if disclosed, could reveal to competitors Apple’s reasoning for adopting, or not adopting, certain business initiatives or indications of Apple’s future plans. The public disclosure of such information would cause Apple economic harm and put it at competitive disadvantage. *See Ctr. for Auto Safety v. Chrysler Grp., LLC*, 809 F.3d 1092, 1097 (9th Cir. 2016), *cert. denied sub nom. FCA U.S. LLC v. Ctr. for Auto Safety*, 137 S. Ct. 38 (2016) (finding there was a compelling reason for sealing when records contained business information that could be used to harm a litigant’s competitive standing); *see also Phillips v. Gen. Motors Corp.*, 307 F.3d 1206, 1211 (9th Cir. 2002) (acknowledging courts’ “broad latitude” to “prevent disclosure of materials for many types of information, including, *but not limited to*, . . . confidential . . . commercial information”).

The information described in the portion of the Order sought to be sealed describes an internal process of discussion and a directive regarding improvement in a certain aspect of Apple’s service offerings. The Court has already sealed the document that appears to be its basis for making the statements that are sought to be sealed. *See* Epic Games Dkt. 287-13. Because this dispute does not implicate the merits of the case, the public will suffer no prejudice in its ability to follow the proceedings.

Apple therefore requests that the Court seal the following:

Document	Redacted Material
January 26, 2021 Discovery Order Filed Under Seal	Page 7, lines 9 through 11

Dated: January 28, 2021

Respectfully submitted,

GIBSON, DUNN & CRUTCHER LLP

By: /s/ Ethan D. Dettmer
Ethan D. Dettmer

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